

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3 DARIUS F. QUEEN #305-181 *

4 Plaintiff *

5 v. * Civil No.

6 H.D. WARD * WDQ-02-3885

7 Defendant *

8 * * * * *

9 DEPOSITION OF DARIUS QUEEN

10 The deposition of Darius Queen was taken via
11 videoconferencing in the above-captioned case on
12 Thursday, September 9th, 2004, commencing at 9:30 a.m.,
13 in the Office of Administrative Hearings, 11101 Gilroy
14 Road, Hunt Valley, Maryland, and was reported by
15 Dawn M. Hyde, a Notary Public.

16

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1 APPEARANCES:

2

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4 Baltimore, MD 21201

On behalf of Plaintiff Queen

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6 PHILIP M. PICKUS, ESQ.

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9 On behalf of Defendant

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1 There's three meals a day?

2 A Oh, yes, sir.

3 Q And it sounds like you had snacks or you
4 were allowed food in your cell; is that correct?

5 A Oh, yes, we allowed to go to the
6 commissary where you can buy food and stuff.

7 Q Were the meals served at the same time
8 each day?

9 A Basically, yes, sir.

10 Q Do you recall what those times were?

11 A No, sir.

12 Q And how was it done? Did the entire
13 housing unit one eat at the same time?

14 A No. They go on different tiers. They
15 call different tiers in the housing unit and they
16 call them at separate times.

17 Q How many tiers are there in housing unit
18 one, if you know?

19 A I believe it was four tiers in all of the
20 units, I believe.

21 Q And which tier were you in while you were

1 in housing unit one?

2 A C tier.

3 Q So each meal, everybody on C tier ate
4 together?

5 A Yes, sir.

6 Q And where would you eat?

7 A We sat in the dining room.

8 Q And where was the dining room in
9 relationship to C tier?

10 A I would say maybe -- I'm not sure, not the
11 distance. I mean, it's not too far from the unit.

12 Q Would there be any other inmates other
13 than your tier eating with you?

14 A I'm not sure. I'm not sure who ate
15 with -- I know that the rest of the tiers in the
16 unit would all share the same dining room together.
17 But I'm not sure if any other units ate with their
18 housing unit. I'm not sure.

19 Q How was the food served to you?

20 A You walked through a line.

21 Q Buffet-style?

1 Q Did everyone in housing unit one have the
2 same rec time?

3 A I believe so.

4 Q And would they use the same rec hall that
5 you played cards in or would they be in a different
6 rec hall?

7 A Everybody in housing unit one?

8 Q Yes.

9 A Everybody in housing unit one, they got
10 their own rec halls. Everybody had individual rec
11 halls for their particular tier.

12 Q Each tier had a rec hall. Is that what
13 you're telling me?

14 A Yes, sir.

15 Q And could people from other tiers come to
16 your rec hall if they wanted to play cards with you
17 one day, or did they not have any access at all?

18 A No, they don't have access to walk in and
19 out of the tiers.

20 Q So no one from other tiers could come and
21 have rec with you at all?

1 A No, sir.

2 Q Is the same true for the gym and the
3 outdoor rec area?

4 A No, that's different. For the gym and
5 outdoors you all together.

6 Q And when you say "all together," you mean
7 housing unit one?

8 A Housing unit one, yes, sir.

9 Q You mentioned that you could get a job.
10 Have you had a job during your time at ECI?

11 A Have I -- can you repeat that? I didn't
12 understand.

13 Q Have you had a job at ECI since you've
14 been there?

15 A Yes, sir.

16 Q What was that?

17 A In the kitchen and education. They
18 consider that a job, education, going to school.

19 Q Education. You going to classes as a
20 student was considered a job?

21 A Yes, sir.

1 BY MR. PICKUS:

2 Q Did he actually threaten to physically
3 hurt you prior to the assault?

4 A Did he actually -- repeat that again.

5 Q Did he actually threaten you with physical
6 harm prior to the assault? I know he said, "There's
7 going to be trouble," but I'm talking about a
8 specific threat.

9 A That is a threat.

10 Q I agree that's a threat. I'm talking
11 about more specific threats.

12 A I mean, not that I recall. Only thing I
13 recall is him saying, "If you don't move out of the
14 cell, there's going to be some trouble."

15 (Recess taken from 10:28 a.m. until
16 10:30 a.m.)

17 (Queen Deposition Exhibit Nos. 1 and
18 2 were marked for identification.)

19 BY MR. PICKUS:

20 Q There eventually came a time where you
21 decided to complain to the staff about Mr. Barnes;

1 assault?

2 A It was a constant thing, anyway. It was
3 just every day it was, you know, a little bickering
4 and saying, you know, trouble.

5 It was like, "You got to get up out of
6 here or there's going to be some trouble if you
7 don't move out of the cell, I'm telling you."
8 Things like that. That was a daily -- that was a
9 constant thing.

10 Q If the cell change request had been
11 granted, where did you want to go?

12 A If it had been granted?

13 MR. CAIOLA: Objection.

14 A It wouldn't have made any difference.

15 MR. CAIOLA: Wait a minute, Mr. Queen.

16 Objection. Do you mean did he have a
17 specific cell in mind that he wanted to be
18 transferred to or do you mean a tier?

19 MR. PICKUS: Cell, tier, unit, anything.

20 MR. CAIOLA: Could you ask him that

21 specific question because I think your question was

1 vague.

2 A It wouldn't have made any difference
3 where.

4 BY MR. PICKUS:

5 Q You didn't have a specific place you
6 wanted to go in mind? Did you have a specific place
7 you wanted to go when you made your request?

8 A When I made the request, I noticed that
9 that cell was open because the older guy had told
10 me, a friend had told me. He was like, "There's a
11 specific cell open, why don't you try to get in that
12 cell." I'm going to move into that cell because
13 it's open.

14 Because the guy told me. He was like,
15 "The only thing that's going to happen is the guy
16 will end up jumping you or something, so why don't
17 you try to get on out of there?"

18 Q Well, what specific cell are you talking
19 about?

20 A Cell 45.

21 Q Same tier?

1 A That was -- yes, it was on the same tier.

2 Q When you say "open," does that mean there
3 was no one in it or there was only one person in it?

4 A There was only one person in it.

5 Q Did you know the person in cell 45 when
6 you made the transfer?

7 A No, sir. When I made the transfer? I
8 don't understand what you just said. You said,
9 "When you made the transfer."

10 Q You testified when you made the transfer
11 you knew --

12 MR. CAIOLA: You mean the transfer
13 request.

14 MR. PICKUS: Transfer request.

15 BY MR. PICKUS:

16 Q When you made a transfer request --

17 A Oh, okay.

18 Q -- you knew that there was an opening in
19 cell 45. Did you know the inmate who was in there
20 at that time?

21 A No, I didn't know the inmate that was in

1 cell 45 when I filled out the request slip to be
2 moved.

3 Q Did you ever communicate your desire to go
4 to cell 45 to any staff in housing unit one?

5 A No, sir. Nothing but -- just this request
6 slip. Just the request slip that I filled out to
7 the lieutenant.

8 Q How about your oral conversations with
9 Officer Peterson?

10 A Just -- because he's the one that told me
11 to go through the lieutenant. So I did what I was
12 told to do. I wrote to the lieutenant to try to be
13 moved.

14 Q And same thing with Sergeant Thomas?

15 MR. CAIOLA: Objection. I believe his
16 testimony is that he didn't converse with Sergeant
17 Thomas other than the first day, which was before he
18 made the request.

19 MR. PICKUS: I'll ask him.

20 BY MR. PICKUS:

21 Q Did you speak to Sergeant Thomas after the

1 first day when you were talking to her about the
2 shoes?

3 A No, I never spoke with her again.

4 Q Are you aware of any institutional policy
5 that inmates who request a cell transfer have to be
6 placed in segregation for a certain amount of time?

7 A No, sir.

8 MR. CAIOLA: Well, do you mean aware based
9 on what's occurred in the litigation or prior to
10 that?

11 MR. PICKUS: I'll rephrase.

12 BY MR. PICKUS:

13 Q When a cell transfer occurs due to
14 possible safety issues, are you aware of any
15 institutional policy where either of the inmates may
16 go in that situation?

17 A I mean, what you saying, at this
18 particular time? Are you asking me that now am I
19 aware, or are you asking me before this took place?

20 Q Actually, I'll ask you both. When you put
21 the request in, the January of '02, were you aware

1 of an institutional policy?

2 MR. CAIOLA: It was December 28th of '01.

3 A No, sir.

4 BY MR. PICKUS:

5 Q Your answer was "no"?

6 A Yes, I was following procedure. He said,
7 "Put a request in, a request slip."

8 That's the only thing I was aware of at
9 that time was to put a request in, right.

10 Q Are you aware of any policy at this time?

11 A I mean, I see -- I'm only aware that if
12 you want to be moved, right, you have to put in a
13 request.

14 Q But you don't have any idea where you go
15 if you're moved for safety issues?

16 A No. I mean, I'm not sure -- right, I
17 can't say for sure.

18 Q Have you ever served any time in
19 administrative segregation?

20 A No, sir.

21 Q I'm talking about your entire DOC history,

1 not just ECI.

2 A None that I'm aware of, no. Never been on
3 it.

4 Q Have you heard what administrative
5 segregation is like from other inmates?

6 A No.

7 Q Well, do you view administrative
8 segregation as something that's desirable?

9 A No. I wouldn't think it's desirable
10 because you're not entitled to the same privileges.
11 I mean, when you say "desirable," what do you mean?
12 Would I like to go?

13 Q Exactly, yes.

14 A No, I wouldn't want that.

15 Q And --

16 A I would like to be in population.

17 Q That's why you didn't move on the first
18 day because you would have had to go to
19 administration segregation?

20 A Because I would have received an
21 infraction, a ticket. Why would I want a ticket? I

1 would have had to receive an infraction. If I
2 refused to go in that cell, I would have received a
3 ticket and then placed -- right.

4 Q All right. Let's get --

5 A For disobeying an order. Basically, it's
6 disobeying an order.

7 Q Right. I understand. I want to ask you
8 about the day you were assaulted by Mr. Barnes.
9 Where were you?

10 A I was in the rec hall, top rec hall,
11 sitting at the card -- playing at the table, playing
12 cards.

13 Q With the same group you usually play cards
14 with?

15 A Yes.

16 Q And tell me what happened?

17 A I was sitting there, playing cards, and
18 all of a sudden I felt an impact to the side of my
19 face, and then I got up and he was standing there
20 with something in his hand. I went to go like I was
21 going towards him, at him, and another guy walked up

1 and he hit me to the side of the head. And I turned
2 around to go at that one and another guy, he hit me
3 to the side of the head.

4 By that time, I walked to the steps. I
5 walked down the steps, and once I got down the
6 steps, I called Officer Peterson. He came through
7 the screen, which is a fence, and started asking me
8 questions, what happened.

9 So that particular time I told him that I
10 fell because he's asking me all -- he's questioning
11 me in front of these guys that had just assaulted
12 me, basically. I'm still locked in with these guys.

13 So I said, "Just let me go lock in my
14 cell." So he said, "Oh, I know what happened. I
15 already know it's between you and your celly, ain't
16 it?"

17 So then he finally gets the door hit and
18 let me out, and when he escorted me up the steps, I
19 said, "Man, you know what's going on, you know what
20 happened." And I'm bleeding and he says, "You're
21 bleeding," so he walked me to the room and then he